

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:
JEFFREY D. WASHVILLE
LORUSSO LOUD & KELLY LLP
PEASE INTERNATIONAL TRADESPORT
15 RYE STREET, SUITE 312
PORTSMOUTH, NH 03801

PCT

WRITTEN OPINION

(PCT Rule 66)

Date of Mailing
(day/month/year)

13 AUG 2004

REPLY DUE

within 1 months/days from
the above date of mailing

Applicant's or agent's file reference

MAV-102-PCT

International application No.

PCT/US03/17040

International filing date (day/month/year)

03 June 2003 (03.06.2003)

Priority date (day/month/year)

03 June 2002 (03.06.2002)

International Patent Classification (IPC) or both national classification and IPC

IPC(7): F02C 7/00 and US Cl.: 60/772, 803

Applicant

VIBRO-METER INC.

1. This written opinion is the first (first, etc.) drawn by this International Preliminary Examining Authority.

2. This opinion contains indications relating to the following items:

- I Basis of the opinion
- II Priority
- III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV Lack of unity of invention
- V Reasoned statement under Rule 66.2 (a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI Certain documents cited
- VII Certain defects in the international application
- VIII Certain observations on the international application

3. The applicant is hereby invited to reply to this opinion.

When? See the time limit indicated above. ~~The applicant may, before the expiration of that time limit, request this Authority to grant an extension. See rule 66.2(d).~~

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also For an additional opportunity to submit amendments, see Rule 66.4.

For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.

For an informal communication with the examiner, see Rule 66.6

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.

4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 03 October 2004 (03.10.2004).

Name and mailing address of the IPEA/US

Mail Stop PCT, Attn: IPEA/US
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Faxsimile No. (703)305-3230

Authorized officer

Louis J. Casaregola

Telephone No. 703-308-0861

I. Basis of the opinion

1. With regard to the elements of the international application:*

- the international application as originally filed
 the description:

pages 1-35, as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____

- the claims:

pages 36-44, as originally filed
pages NONE, as amended (together with any statement) under Article 19
pages NONE, filed with the demand
pages NONE, filed with the letter of _____

- the drawings:

pages 1-11, as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____

- the sequence listing part of the description:

pages NONE, as originally filed
pages NONE, filed with the demand
pages NONE, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
 the language of publication of the international application (under Rule 48.3(b)).
 the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the written opinion was drawn on the basis of the sequence listing:

- contained in the international application in printed form.
 filed together with the international application in computer readable form.
 furnished subsequently to this Authority in written form.
 furnished subsequently to this Authority in computer readable form.
 The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
 The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- the description, pages NONE
 the claims, Nos. NONE
 the drawings, sheets/fig NONE

5. This opinion has been drawn as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed."

WRITTEN OPINIONInternational Application No.
PCT/US03/17040**V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. STATEMENT**

Novelty (N)	Claims 3, 4, 7-23	YES
	Claims 1, 2, 5, and 6	NO
Inventive Step (IS)	Claims 10-18 and 21-23	YES
	Claims 1-9, 19, and 20	NO
Industrial Applicability (IA)	Claims 1-23	YES
	Claims NONE	NO

2. CITATIONS AND EXPLANATIONS

Claims 1, 2, 5, and 6 lack novelty under PCT Article 33(2) as being anticipated by Minot et al. Attention is called to Minot's Figures 1-5 and 8; note viewing port 43, fiber optic cable 3, sensor element 24, amplifier 27, output means 26, etc.

Claims 3, 4, 19, and 20 lack an inventive step under PCT Article 33(3) as being obvious over Minot et al. The nominal addition of a computer and storage device for saving and processing Minot's signal output would have been an obvious expedient for recording and evaluating the system's operations.

Claims 7-9 lack an inventive step under PCT Article 33(3) as being obvious over Minot et al in view of Morey. Sensing radiant energy in a turbine's exhaust is an obvious alternative to sensing radiant energy in the turbine's combustor; see Morey's Figure 2, elements 215-218.

Claims 10-18 and 21-23 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest the various optical and signal processing features described in those claims.

Claim 1-23 meet the criteria set out in PCT Article 33(4) and thus have industrial applicability because the claimed subject matter can be made and/or used in industry.

----- NEW CITATIONS -----

WRITTEN OPINION

International Application No.
PCT/US03/17040

Supplemental Box

(To be used when the space in any of the preceding boxes is not sufficient)

TIME LIMIT:

The time limit set for response to a Written Opinion may not be extended. 37 CFR 1.484(d). Any response received after the expiration of the time limit set in the Written Opinion will not be considered in preparing the International Preliminary Examination Report.